

Message Text

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ORIGIN L-03

INFO OCT-01 EA-09 ISO-00 PRS-01 ABF-01 SS-15 SIG-02 A-01

AID-05 H-02 EB-07 CIAE-00 DODE-00 INR-07 NSAE-00

PA-02 USIA-15 SP-02 MMO-04 /077 R

DRAFTED BY L/T:JBOYD:JDB

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R 040239Z MAR 76

FM SECSTATE WASHDC

TO AMEMBASSY SEOUL

UNCLAS STATE 052443

E.O. 11652: N/A

TAGS: AGAO, KS

SUBJECT:PRESS GUIDANCE: GAO REPORT, US AGREEMENTS WITH
THE ROK

REF: STATE 49827

1. FOLLOWING PRESS GUIDANCE PREPARED FOR MARCH 2-3 BRIEF-
ING.

QUOTE:

QUESTION: THERE WERE REPORTS IN YESTERDAY'S "WASHINGTON
POST" AND "NEW YORK TIMES" SETTING FORTH FINDINGS OF
A GAO STUDY TO THE EFFECT THAT THERE ARE SOME 34 AGREE-
MENTS BETWEEN THE UNITED STATES AND SOUTH KOREA WHICH
HAVE NOT BEEN REPORTED TO CONGRESS AS REQUIRED BY LAW.
DO YOU HAVE ANY COMMENT?

ANSWER: THE GAO DID NOT FIND THAT THE DEPARTMENT OF
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STATE HAD FAILED TO COMPLY WITH ITS OBLIGATIONS UNDER

THE CASE ACT, WHICH REQUIRES THE TRANSMISSION TO THE CONGRESS BY THE DEPARTMENT OF ALL AGREEMENTS OTHER THAN TREATIES NO LATER THAN 60 DAYS AFTER THEIR ENTRY INTO FORCE. THE GAO SIMPLY STATED THAT ALL OF THE 34 AGREE-

MENTS NOT TRANSMITTED WERE "OPERATING, IMPLEMENTING, OR AGENCY-TO-AGENCY AGREEMENTS AND WERE NEVER SUBMITTED TO THE STATE DEPARTMENT." MOST OF THEM WERE DONE BY OFFICERS IN THE FIELD. FURTHER, THE GAO SAID THAT MOST OF THE UNREPORTED AGREEMENTS "RELATED TO MINOR ISSUES."

NEXT, DESPITE SOME VARIATIONS IN OUR PRIOR PRACTICE, THE DEPARTMENT NOW REVIEWS ALL AGENCY-LEVEL ARRANGEMENTS WHICH MAY WELL BE INTERNATIONAL AGREEMENTS IF THEY MEET THE OTHER NECESSARY CRITERIA. MOST OF THE 34 AGREEMENTS GAO LISTED WERE AGENCY LEVEL ARRANGEMENTS AND WERE ENTERED INTO BEFORE OUR PRESENT POLICY WAS IMPLEMENTED.

QUESTION: BUT WHAT ABOUT AN AGREEMENT COMMITTING THE UNITED STATES TO PROVIDE \$1.5 BILLION TO MODERNIZE SOUTH KOREA'S ARMED FORCES? SURELY THIS IS A SIGNIFICANT AGREEMENT. WHY WAS IT NOT REPORTED?

ANSWER: THIS UNDERSTANDING WITH THE REPUBLIC OF KOREA WAS REACHED BEFORE THE ENACTMENT OF THE CASE ACT AND IN ANY CASE IS NOT LEGALLY BINDING. FURTHER, THE GAO REPORT POINTED OUT THAT THE MODERNIZATION PLAN WAS MADE KNOWN TO THE CONGRESSIONAL APPROPRIATION COMMITTEES AND WAS A MATTER OF PUBLIC RECORD.

IN THIS CONTEXT, IT SHOULD BE NOTED THAT NOT EVERY UNDERTAKING MADE BY THE UNITED STATES IS A TREATY OR AN EXECUTIVE AGREEMENT. POLITICAL OR MORAL UNDERTAKINGS MAY BE IMPORTANT, AND SHOULD CERTAINLY BE KNOWN TO THE CONGRESS, BUT THEY ARE NOT NECESSARILY LEGALLY BINDING AGREEMENTS. END QUOTE

2. NO QUESTIONS WERE RECEIVED ON SUBJECT AT PRESS BRIEFINGS MARCH 2 OR 3. KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 04 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE052443
Document Source: CORE
Document Unique ID: 00
Drafter: JBOYD:JDB
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760082-1162
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760394/aaaadfch.tel
Line Count: 99
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN L
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 76 STATE 49827
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 09 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <09 JUL 2004 by fisherem>; APPROVED <10 DEC 2004 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: RESS GUIDANCE: GAO REPORT, US AGREEMENTS WITH THE ROK
TAGS: AGAO, KS
To: SEOUL
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006